

General Information Letter: Claims for refund of replacement taxes paid by a Subchapter S corporation resulting from retroactive allowance of a subtraction modification for income distributable to shareholders subject to replacement tax should be filed using Form IL-843.

January 10, 2001

Dear:

This will serve as a reply to your correspondence dated December 30, 2000. According to Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). The regulations explaining these two types of rulings issued by the Department can be found at 2 Ill. Adm. Code sec. 1200 or on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics but are not, however, binding on the Department. In your letter, you have stated as follows:

With the change in the IL Income Tax Act that allows Sub-S corps. A subtraction for shareholders distributions, how will this be handled on amended IL-1120-STs?

I ask this because its effective date for tax years ending on or after 12-31-97. I have many clients that can expect a refund if '97, 8 & 9 taxes are amended.

What form is used – IL-1120-X? On what line is this new subtraction? Any help or guidance will be greatly appreciated.

The law change to which you refer is P.A. 91-0913, effective for taxable years ending on or after 12/31/97. That statute added subsection S to Illinois Income Tax Act Section 203 (b) and provides a subtraction modification with the following language:

For taxable years ending on or after December 31, 1997, in the case of a Subchapter S corporation, an amount equal to all amounts of income allocable to a shareholder subject to the Personal Property Tax Replacement Income Tax imposed by subsections (c) and (d) of Section 201 of this Act, including amounts allocable to organizations exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code. This subparagraph (S) is exempt from the provisions of Section 250.

Please be advised that in order to claim a refund for the years in question based upon overpayment of tax due to this subtraction, a taxpayer needs to file Form IL-843 with the Department. At Line 4 of that form, the taxpayer will explain the reason for claiming a refund, i.e., overpayment due to this subtraction. Per Line 5 of the form, the taxpayer will also attach a "**revised**" copy of its original return (i.e., the IL-1120-ST) reflecting the new subtraction and the resulting overpayment. Please note that since returns for 1997 through 1999 will not reflect the subtraction created by this relatively new law

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change, it will be necessary for taxpayers to claim it at Line 5 f. "Other subtractions" on the "revised IL-1120-ST"

We hope that our correspondence adequately responds to your inquiry. If not, you can access the Department's Web-site at the URL listed above or the Income Tax Legal Division at 217-782-7054.

Sincerely yours,

Jackson E. Donley,
Senior Counsel - Income Tax